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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20543

FILE: B-191137

DATE: May 10, 1978

MATTER OF:

Target Communications, Inc.

DIGEST:

Although bidder alleges that it failed to receive IFB amendments in sufficient time to consider their contents, contracting officer's refusal to extend the bid opening was justified since bidder's failure to receive amendments was not the result of conscious or deliberate effort by agency to preclude bidder from competing.

Target Communications, Inc. (Target) protests the award of a contract under solicitation No. IFB-00-78-B-13 issued by the Department of Agriculture (Agriculture) inviting bids for interior and exterior exhibits, floor covering and furniture for the Seneca Rocks Visitor Center, West Virginia. As Target did not receive Amendment Nos. 1 and 2 to the solicitation and final drawings at the same time as the other bidders, it contends that an extension of the bid opening date should have been granted. Target argues that it was denied the opportunity to compete equally for the contract because it did not receive the amendments in time to revise its initial bid.

The solicitation was issued on December 26, 1977 and included a copied set of preliminary drawings. On January 10, 1978, Amendment No. 1 was issued to all prospective bidders. The amendment incorporated a final set of drawings, made changes to the specifications, and required bidders to price separately each subitem. Amendment No. 2 was issued on January 13, 1978, notifying all prospective bidders of a change in the bid opening date from January 18, 1978 to January 25, 1978, and deleting four items from the price schedule.

Agriculture received Target's bid on January 18, 1978, the original bid opening date. Target called

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Agriculture on this date to find out the results of bid opening and was told that bids would not be opened until January 25, 1978, in accordance with Amendment No. 2. As Target explained that it had not received any amendments, Agriculture then mailed a second set of amendments and drawings to Target. On January 19, 1978, the amendments were also transmitted to Target by telecopier. Although the final drawings could not be sent in this manner, the contracting officer states that he offered to explain them orally. Target asked for an extension of bid time but was notified on January 23, 1978, that an extension would not be granted.

Target argues that because it did not receive the amendments at the same time as the other bidders, an extension of the bid opening date should have been granted. However, the risk of nonreceipt of invitations and amendments is upon the bidders. A. Brindis Company, Inc., B-187041, December 9, 1976, 76-2 CPD 477. The procurement activity discharges its responsibility when it issues and dispatches an amendment in sufficient time to permit all the prospective bidders time to consider such information in submitting their bids, notwithstanding the loss or delay of a particular individual's copy of the amendment. Kennedy Van and Storage Company, Inc., B-189220, August 19, 1977, 77-2 CPD 130.

If a bidder fails to receive a material amendment to a solicitation, we would not require cancellation and resolicitation unless failure to receive the amendment is the result of a conscious and deliberate effort by the contracting agency to exclude the bidder from participating in the competition. 40 Comp. Gen. 126, 128 (1960); Ikard Manufacturing Co., B-190669, January 23, 1978, 78-1 CPD 58. The protester does not allege and we see nothing in the record to indicate that there was a deliberate attempt by Agriculture to exclude Target from the competition. To the contrary, when notified that Target had not received

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the amendments on January 18, 1978, Agriculture made every effort to provide Target with the opportunity to revise its initial bid in accordance with the amendments and final drawings.

The protest is denied.


Deputy Comptroller General
of the United States